

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

RODERICK LUJAN, as Personal  
Representative of the Estate of CLEOTILDE URIOSTE,

Plaintiff,

vs.

No. \_\_\_\_\_

CORPORATION X, CORPORATION Y,  
VISTA LIVING COMMUNITIES, LLC,  
AN OHIO COMPANY, d/b/a THE ARBORS OF DEL REY,  
JESUS ROBERTO DURAN, M.D.,  
JOHN DOES 1-5 and JANE DOES 1-5,

Defendants.

**AFFIDAVIT OF STEVEN S. SCHOLL**

I, Steven S. Scholl, on my oath, do hereby state and depose:

1. I am over the age of 18, I am an attorney in good standing and licensed in New Mexico, I have personal knowledge of the facts stated in this Affidavit and I am otherwise competent to make this Affidavit.

2. I represent Defendant Vista Living Communities, LLC, an Ohio company, d/b/a The Arbors of Del Rey (Defendant Vista).

3. On Thursday, April 28, 2011, I contacted Jesus Roberto Duran, M.D.

4. At the time I contacted Dr. Duran, he was unaware that he was named as a defendant in the state court action filed by Plaintiff Roderick Lujan, as Personal Representative of the Estate of Cleotiled Urioste captioned *Lujan v. Vista Living Communities, LLC, et. al.*, case number D-412-CV-201100075 ("state court action").

5. Dr. Duran confirmed that he has not been served with a Summons or copy of the Complaint in the state court action; nor has Dr. Duran otherwise received a copy of the Complaint.

EXHIBIT

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6. Dr. Duran is further unaware of any complaint filed with the New Mexico Medical review commission against him by the Estate of Cleotilde Urioste and/or Roderick Lujan, individually, and/or as Personal Representative of the Estate of Cleotilde Urioste.

7. One April 28, 2011, I reviewed the New Mexico Courts On-Line Case Look-up (<http://www2.nmcourts.gov/caselookup/app>) for *Lujan v. Vista Living Communities, LLC, et. al.*, case number D-412-CV-201100075. A copy of the online case docket for *Lujan v. Vista Living Communities, LLC, et. al.*, case number D-412-CV-201100075 is attached hereto as Exhibit 1.

8. The on-line case docket for the state court action shows no filed return of service for Defendant Jesus Roberto Duran, M.D.

9. The on-line case docket for the state court action shows no Summonses issued for Defendants Corporation X, Corporation Y, John Does 1-5 or Jane Does 1-5.

10. On April 28, 2011, my office contacted a Court Clerk ("Helen") at the Fourth Judicial District Court, Las Vegas (#412), New Mexico.

11. The Court Clerk confirmed that no return of service for Defendant Jesus Roberto Duran, M.D. had been filed in the state court action as of April 28, 2011.


12. The Court Clerk confirmed that no Summonses for Defendants Corporation X, Corporation Y, John Does 1-5 or Jane Does 1-5 have been issued in the state court action as of April 28, 2011.

13. I have reviewed the Complaint to Recover Damages for Personal Injuries and Wrongful Death Arising out of Negligence, Medical Negligence, Misrepresentation, Breach of Contract, Unfair Trade Practices, Negligent Infliction of Emotional Distress, Violation of the

Resident Abuse and Neglect Act, and Loss of Consortium ("Complaint") on filed on February 8, 2011, in the Fourth Judicial District Court, County of San Miguel, New Mexico (No. D-412-CV-2011-00075).

14. Based upon my twenty-two (22) years of practicing law in New Mexico, trying over fifty (50) cases in both New Mexico State courts and the United State District Court for the District of New Mexico and litigating approximately one hundred (100) medical malpractice lawsuits, and upon my review of the facts, allegations and claims asserted in the Complaint, my opinion is that the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

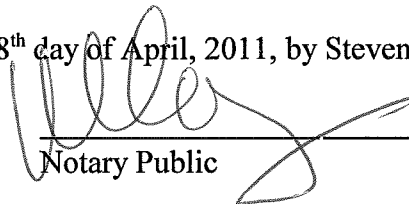
15. Further, Affiant sayeth naught.



Steven S. Scholl

STATE OF NEW MEXICO                    )  
  ) ss.  
COUNTY OF BERNALILLO            )

Subscribed and sworn to before me this 28<sup>th</sup> day of April, 2011, by Steven S. Scholl.

  
Notary Public

My commission expires:

01/16/12



OFFICIAL SEAL  
Veronica N. Lewis  
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: \_\_\_\_\_

AFFIDAVIT OF STEVEN S. SCHOLL

D-412-CV-201100075 - Thursday, April 28, 2011

**Roderick Lujan**  
v.  
**Vista Living Communities, LLC, et. al.**

**CASE DETAIL**

CASE #	CURRENT JUDGE	FILING DATE	COURT
D-412-CV-201100075	Mathis, Eugenio S.	02/08/2011	LAS VEGAS District

**PARTIES TO THIS CASE**

PARTY TYPE	PARTY DESCRIPTION	PARTY #	PARTY NAME
D	Defendant	1	VISTA LIVING COMMUNITIES, LLC
D	Defendant	2	CORPORATION X
D	Defendant	3	CORPORATION Y
D	Defendant	4	AN OHIO COMPANY
D	Defendant	5	DURAN JESUS ROBERTO
DC	Decedent	1	URIOSTE CLEOTILDE
P	Plaintiff	1	LUJAN RODERICK
ATTORNEY: ROMERO DAVE ELOY			
ATTORNEY: CHELPATY TIM			
ATTORNEY: KAUFFMAN GREGORY R.			
PR	Personal Representative	1	LUJAN RODERICK
ATTORNEY: ROMERO DAVE ELOY			
ATTORNEY: CHELPATY TIM			
ATTORNEY: KAUFFMAN GREGORY R.			

**CIVIL COMPLAINT DETAIL**

COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
02/08/2011	1	OPN: COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Tort: Personal Injury Non Auto

PARTY NAME	PARTY TYPE	PARTY #
LUJAN RODERICK	P	1
VISTA LIVING COMMUNITIES, LLC	D	1

COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
02/08/2011	2	OPN: COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Wrongful Death, Non-Auto

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
02/08/2011	3	OPN: COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Medical Malpractice

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
02/08/2011	4	OPN: COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Miscellaneous

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
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D-412-CV-201100075 - Thursday, April 28, 2011

02/08/2011 5 OPN: COMPLAINT

COA SEQ #	COA DESCRIPTION
1	Miscellaneous

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
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02/08/2011 6 OPN: COMPLAINT

COA SEQ #	COA DESCRIPTION
1	Breach of Contract

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
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02/08/2011 7 OPN: COMPLAINT

COA SEQ #	COA DESCRIPTION
1	Miscellaneous

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
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02/08/2011 8 OPN: COMPLAINT

COA SEQ #	COA DESCRIPTION
1	Miscellaneous

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
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02/08/2011 9 OPN: COMPLAINT

COA SEQ #	COA DESCRIPTION
1	Loss of Consortium

PARTY NAME	PARTY TYPE	PARTY #
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## REGISTER OF ACTIONS ACTIVITY

EVENT DATE	EVENT DESCRIPTION	EVENT RESULT	PARTY TYPE	PARTY #	AMOUNT
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03/22/2011

Issued to CT Corporation System

03/22/2011

Issued to Jesus Duran

02/16/2011

NTC: JUDGE ASSIGNMENT

Notice of Judge Assignment; Judge Mathis assigned to case due to Recusal of Judge Sandoval

02/16/2011

JDG: JUDGE RECUSAL

Notice of Voluntary Recusal; from Judge Sandoval

02/08/2011

OPN: COMPLAINT

Complaint to Recover Damages for Personal Injuries and Wrongful Death Arising out of Negligence, Medical Negligence, Misrepresentation, Breach of Contract, Unfair Trade Practices, Negligent Infliction of Emotional Distress, Violation of Resident Abuse and Neglect Act, and Loss of Consortium

## JUDGE ASSIGNMENT HISTORY

ASSIGNMENT DATE	JUDGE NAME	SEQ #	ASSIGNMENT EVENT DESCRIPTION
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02/08/2011

Sandoval, Matthew J.

1

INITIAL ASSIGNMENT

02/16/2011

Mathis, Eugenio S.

2

Judge Recused